

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1104

Introduced by Assembly Member Monning

February 27, 2009

An act to amend Section ~~38346~~ 40215 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1104, as amended, Monning. Vehicles: ~~off-highway motor vehicle~~. parking violations.

Existing law allows a person to request a review of a notice of parking violation by the issuing agency if the request is made within 21 calendar days from the issuance of the notice or 14 calendar days from the mailing of the notice of delinquent parking violation.

Existing law also requires a processing agency, within 15 days of a request, to mail or otherwise provide a copy or facsimile of the original parking violation notice to the person who has received the parking violation notice.

This bill, for purposes of counting the number of days a person has to request an initial review of the notice of parking violation, would exclude the period of time between the day a processing agency receives a request for a copy of the original parking violation notice and the day the processing agency complies with the request.

~~Existing law prohibits a person from displaying a flashing or steady red or blue warning light on a off-highway motor vehicle, except as specified.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION. 1. Section 40215 of the Vehicle Code is amended*
2 *to read:*

3 40215. (a) For a period of 21 calendar days from the issuance
4 of a notice of parking violation or 14 calendar days from the
5 mailing of a notice of delinquent parking violation, *excluding the*
6 *period of time between the day a processing agency receives a*
7 *request for a copy or facsimile of the original notice of parking*
8 *violation pursuant to Section 40206.5 and the day the processing*
9 *agency complies with the request,* a person may request an initial
10 review of the notice by the issuing agency. The request may be
11 made by telephone, in writing, or in person. There shall be no
12 charge for this review. If, following the initial review, the issuing
13 agency is satisfied that the violation did not occur, that the
14 registered owner was not responsible for the violation, or that
15 extenuating circumstances make dismissal of the citation
16 appropriate in the interest of justice, the issuing agency shall cancel
17 the notice of parking violation or notice of delinquent parking
18 violation. The issuing agency shall advise the processing agency,
19 if any, of the cancellation. The issuing agency or the processing
20 agency shall mail the results of the initial review to the person
21 contesting the notice, and, if following that review, cancellation
22 of the notice does not occur, include a reason for that denial.

23 (b) If the person is dissatisfied with the results of the initial
24 review, the person may request an administrative hearing of the
25 violation no later than 21 calendar days following the mailing of
26 the results of the issuing agency's initial review. The request may
27 be made by telephone, in writing, or in person. The person
28 requesting an administrative hearing shall deposit the amount of
29 the parking penalty with the processing agency. The issuing agency
30 shall provide a written procedure to allow a person to request an
31 administrative hearing without payment of the parking penalty
32 upon satisfactory proof of an inability to pay the amount due.
33 Notice of this procedure shall be provided to all persons requesting
34 an administrative hearing. After January 1, 1996, an administrative
35 hearing shall be held within 90 calendar days following the receipt

1 of a request for an administrative hearing, excluding time tolled
2 pursuant to this article. The person requesting the hearing may
3 request one continuance, not to exceed 21 calendar days.

4 (c) The administrative hearing process shall include the
5 following:

6 (1) The person requesting a hearing shall have the choice of a
7 hearing by mail or in person. An in-person hearing shall be
8 conducted within the jurisdiction of the issuing agency. If an
9 issuing agency contracts with an administrative provider, hearings
10 shall be held within the jurisdiction of the issuing agency or within
11 the county of the issuing agency.

12 (2) If the person requesting a hearing is a minor, that person
13 shall be permitted to appear at a hearing or admit responsibility
14 for the parking violation without the necessity of the appointment
15 of a guardian. The processing agency may proceed against the
16 minor in the same manner as against an adult.

17 (3) The administrative hearing shall be conducted in accordance
18 with written procedures established by the issuing agency and
19 approved by the governing body or chief executive officer of the
20 issuing agency. The hearing shall provide an independent,
21 objective, fair, and impartial review of contested parking violations.

22 (4) (A) The issuing agency's governing body or chief executive
23 officer shall appoint or contract with qualified examiners or
24 administrative hearing providers that employ qualified examiners
25 to conduct the administrative hearings. Examiners shall
26 demonstrate those qualifications, training, and objectivity necessary
27 to conduct a fair and impartial review. An examiner shall not be
28 employed, managed, or controlled by a person whose primary
29 duties are parking enforcement or parking citation, processing,
30 collection, or issuance. The examiner shall be separate and
31 independent from the citation collection or processing function.
32 An examiner's continued employment, performance evaluation,
33 compensation, and benefits shall not, directly or indirectly, be
34 linked to the amount of fines collected by the examiner.

35 (B) Examiners shall have a minimum of 20 hours of training.
36 The examiner is responsible for the costs of the training. The
37 issuing agency may reimburse the examiner for those costs.
38 Training may be provided through (i) an accredited college or
39 university, (ii) a program conducted by the Commission on Peace
40 Officer Standards and Training, (iii) American Arbitration

1 Association or a similar established organization, or (iv) through
2 any program approved by the governing board of the issuing
3 agency, including a program developed and provided by, or for,
4 the agency. Training programs may include topics relevant to the
5 administrative hearing, including, but not limited to, applicable
6 laws and regulations, parking enforcement procedures, due process,
7 evaluation of evidence, hearing procedures, and effective oral and
8 written communication. Upon the approval of the governing board
9 of the issuing agency, up to 12 hours of relevant experience may
10 be substituted for up to 12 hours of training. In addition, up to
11 eight hours of the training requirements described in this
12 subparagraph may be credited to an individual, at the discretion
13 of the governing board of the issuing agency, based upon training
14 programs or courses described in (i) to (iv), inclusive, that the
15 individual attended within the last five years.

16 (5) The officer or person who issues a notice of parking violation
17 shall not be required to participate in an administrative hearing.
18 The issuing agency shall not be required to produce any evidence
19 other than the notice of parking violation or copy thereof and
20 information received from the Department of Motor Vehicles
21 identifying the registered owner of the vehicle. The documentation
22 in proper form shall be prima facie evidence of the violation.

23 (6) The examiner's decision following the administrative hearing
24 may be personally delivered to the person by the examiner or sent
25 by first-class mail, and, if the notice is not cancelled, include a
26 written reason for that denial.

27 (7) Following a determination by the examiner that a person
28 has committed the violation, the examiner may, consistent with
29 the written guidelines established by the issuing agency, allow
30 payment of the parking penalty in installments, or an issuing
31 agency may allow for deferred payment or allow for payments in
32 installments, if the person provides evidence satisfactory to the
33 examiner or the issuing agency, as the case may be, of an inability
34 to pay the parking penalty in full. If authorized by the governing
35 board of the issuing agency, the examiner may permit the
36 performance of community service in lieu of payment of a parking
37 penalty.

38 (d) The provisions of this section relating to the administrative
39 appeal process do not apply to an issuing agency that is a law

1 enforcement agency if the issuing agency does not also act as the
2 processing agency.

3 ~~SECTION 1. Section 38346 of the Vehicle Code is amended~~
4 ~~to read:~~

5 ~~38346. Except as permitted by Section 21055 or when an~~
6 ~~extreme hazard exists, a person shall not display a flashing or~~
7 ~~steady burning red or blue warning light on an off-highway motor~~
8 ~~vehicle.~~

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